

Assembly Bill No. 1773

Passed the Assembly April 29, 2010

Chief Clerk of the Assembly

Passed the Senate August 5, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 12606.1, 13188.4, and 13197.6 to the Health and Safety Code, relating to fire protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1773, Mendoza. State Fire Marshal: inspections and licensing.

Existing law provides for the licensing by the State Fire Marshal of persons to engage in various activities relating to the sale or use of fireworks, and the servicing of portable fire extinguishers and automatic extinguisher systems.

This bill would authorize the State Fire Marshal or his or her designee to stay the suspension of a license or certificate of registration in specified instances on condition that its holder pay a specified monetary penalty and incur no other cause for disciplinary action, as specified. Those penalties would be deposited in the State Fire Marshal Licensing and Certification Fund. The bill would require the State Fire Marshal to make specified data relating to this bill available to the public.

The people of the State of California do enact as follows:

SECTION 1. Section 12606.1 is added to the Health and Safety Code, to read:

12606.1. (a) If the State Fire Marshal or his or her designee determines that the public interest and public welfare will be adequately served by permitting a person licensed under this chapter to pay a monetary penalty to the State Fire Marshal in lieu of an actual license suspension, the State Fire Marshal or his or her designee may stay the execution of all or part of the suspension if all of the following conditions are met:

(1) The violation that is the cause for the suspension did not pose, or have the potential to pose, a significant threat or risk of harm to the public.

(2) The licensee pays a monetary penalty.

(3) The licensee does not incur any other cause for disciplinary action within a period of time specified by the State Fire Marshal or his or her designee.

In making the determination, the State Fire Marshal or his or her designee shall consider the seriousness of the violation, the violator's record of compliance with the law, the impact of the determination on the licensee, the licensee's employees or customers, and other relevant factors.

(b) The State Fire Marshal or his or her designee may exercise the discretion granted under this section either with respect to a suspension ordered by a decision after a contested hearing on an accusation against the licensee or by stipulation with the licensee after the filing of an accusation, but prior to the rendering of a decision based upon the accusation. In either case, the terms and conditions of the disciplinary action against the licensee shall be made part of a formal decision of the State Fire Marshal or his or her designee.

(c) If a licensee fails to pay the monetary penalty in accordance with the terms and conditions of the decision of the State Fire Marshal or his or her designee, the State Fire Marshal or his or her designee may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the licensee shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the State Fire Marshal under the terms of the decision.

(d) The amount of the monetary penalty payable under this section shall not exceed two hundred fifty dollars (\$250) for each day of suspension stayed nor a total of ten thousand dollars (\$10,000) per decision regardless of the number of days of suspension stayed under the decision.

(e) Any monetary penalty received pursuant to this section shall be deposited in the State Fire Marshal Licensing and Certification Fund.

(f) On or before March 1 of each year, the State Fire Marshal shall make available to the public data showing the percentage of enforcement actions taken that resulted in license suspension or the assessment of monetary penalties pursuant to this section.

SEC. 2. Section 13188.4 is added to the Health and Safety Code, to read:

13188.4. (a) If the State Fire Marshal or his or her designee determines that the public interest and public welfare will be adequately served by permitting a person who has a license issued pursuant to Section 13165 or a certificate of registration issued pursuant to Section 13178 to pay a monetary penalty to the State Fire Marshal in lieu of a license or certificate of registration suspension, the State Fire Marshal or his or her designee may stay the execution of all or part of the suspension if all of the following conditions are met:

(1) The violation that is the cause for the suspension did not pose, or have the potential to pose, a significant threat or risk of harm to the public.

(2) The holder of the license or certificate of registration pay a monetary penalty.

(3) The holder of the license or certificate of registration does not incur any other cause for disciplinary action within a period of time specified by the State Fire Marshal or his or her designee.

In making the determination, the State Fire Marshal or his or her designee shall consider the seriousness of the violation, the violator's record of compliance with the law, the impact of the determination on the violator, the violator's employees or customers, and other relevant factors.

(b) The State Fire Marshal or his or her designee may exercise the discretion granted under this section either with respect to a suspension ordered by a decision after a contested hearing on an accusation against the holder of the license or certificate of registration or by stipulation with the holder of the license or certificate of registration after the filing of an accusation, but prior to the rendering of a decision based upon the accusation. In either case, the terms and conditions of the disciplinary action against the holder of the license or certificate of registration shall be made part of a formal decision of the State Fire Marshal or his or her designee.

(c) If a holder of the license or certificate of registration fails to pay the monetary penalty in accordance with the terms and conditions of the decision of the State Fire Marshal or his or her designee, the State Fire Marshal or his or her designee may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the holder of the license or certificate of registration shall not be entitled to any repayment

nor credit, prorated or otherwise, for money paid to the State Fire Marshal under the terms of the decision.

(d) The amount of the monetary penalty payable under this section shall not exceed two hundred fifty dollars (\$250) for each day of suspension stayed nor a total of ten thousand dollars (\$10,000) per decision regardless of the number of days of suspension stayed under the decision.

(e) Any monetary penalty received pursuant to this section shall be deposited in the State Fire Marshal Licensing and Certification Fund.

(f) On or before March 1 of each year, the State Fire Marshal shall make available to the public data showing the percentage of enforcement actions taken that resulted in license suspension or the assessment of monetary penalties pursuant to this section.

SEC. 3. Section 13197.6 is added to the Health and Safety Code, to read:

13197.6. (a) If the State Fire Marshal or his or her designee determines that the public interest and public welfare will be adequately served by permitting a person licensed under this chapter to pay a monetary penalty to the State Fire Marshal in lieu of an actual license suspension, the State Fire Marshal or his or her designee may stay the execution of all or part of the suspension if all of the following conditions are met:

(1) The violation that is the cause for the suspension did not pose, or have the potential to pose, a significant threat or risk of harm to the public.

(2) The licensee pays a monetary penalty.

(3) The licensee does not incur any other cause for disciplinary action within a period of time specified by the State Fire Marshal or his or her designee.

In making the determination, the State Fire Marshal or his or her designee shall consider the seriousness of the violation, the violator's record of compliance with the law, the impact of the determination on the licensee, the licensee's employees or customers, and other relevant factors.

(b) The State Fire Marshal or his or her designee may exercise the discretion granted under this section either with respect to a suspension ordered by a decision after a contested hearing on an accusation against the licensee or by stipulation with the licensee after the filing of an accusation, but prior to the rendering of a

decision based upon the accusation. In either case, the terms and conditions of the disciplinary action against the licensee shall be made part of a formal decision of the State Fire Marshal or his or her designee.

(c) If a licensee fails to pay the monetary penalty in accordance with the terms and conditions of the decision of the State Fire Marshal or his or her designee, the State Fire Marshal or his or her designee may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the licensee shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the State Fire Marshal under the terms of the decision.

(d) The amount of the monetary penalty payable under this section shall not exceed two hundred fifty dollars (\$250) for each day of suspension stayed nor a total of ten thousand dollars (\$10,000) per decision regardless of the number of days of suspension stayed under the decision.

(e) Any monetary penalty received pursuant to this section shall be deposited in the State Fire Marshal Licensing and Certification Fund.

(f) On or before March 1 of each year, the State Fire Marshal shall make available to the public data showing the percentage of enforcement actions taken that resulted in license suspension or the assessment of monetary penalties pursuant to this section.

Approved _____, 2010

Governor